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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,371	08/28/2001	Mark Kintis	12-1201	6016
7590	12/03/2008		EXAMINER	
Katten Muchin Rosenman LLP 525 West Monroe Street Chicago, IL 60661-3693				NGUYEN, LEON VIET Q
ART UNIT		PAPER NUMBER		
2611				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/941,371	KINTIS, MARK	
	<b>Examiner</b>	<b>Art Unit</b>	
	LEON-VIET Q. NGUYEN	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 19 September 2008.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-6, 12-15 and 28-32 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-6, 12-15 and 28-32 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 28 August 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

1. This office action is in response to communication filed on 9/19/08. Claims 1-6, 12-15, and 28-32 are pending on this application.

### ***Response to Arguments***

2. Applicant's arguments, see Remarks, filed 9/19/08, with respect to the rejection(s) of claim(s) 1-6, 12-15, and 28-32 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Thorson (US6101225), Horiguchi et al (US6133791), Pitel (US4661897), Underbrink et al (US6754287), and Scott (US5784403).

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

**6. Claims 1, 6, 14, 28, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thorson (US6101225) in view of Horiguchi et al (US6133791) and further in view of Pitel (US4661897).**

Re claim 1, Thorson teaches a mixer circuit for reducing the power level of spurious output signals (fig. 2), the mixer comprising:

a first mixer stage (the upper branch of fig. 2) which includes a mixer (mixer 120 in fig. 2) with first and second input ports (the input ports receiving signals 219 and 131 in fig. 2) and an a first output port (mixer 120 outputs signal 115 in fig. 2), said first input port for receiving an input signal (input signal 219 in fig. 2);

a second mixer stage (the lower branch of fig. 2) which includes a second mixer (mixer 122 in fig. 2) with third and forth input ports (the input ports receiving signals 221 and 133 in fig. 2) and a second output port (mixer 122 outputs signal 117 in fig. 2), said first input port electrically coupled said third input port (fig. 2, the input ports are coupled);

a phase modulator (modulator 240 in fig. 2) for phase modulating a first local oscillator signal (signal 111 in fig. 2), said phase modulator electrically coupled to said second input port (fig. 2); and

a second phase modulator (modulator 242 in fig. 2) for phase modulating a second local oscillator signal (signal 113 in fig. 2), said second phase modulator electrically coupled to said fourth input port (fig. 2).

Thorson fails to teach wherein the local oscillator signals are modulated according to a pseudorandom code. However Horiguchi teaches a pseudorandom code generator (element 51 in fig. 14) controlling phase modulators (element 47 in fig. 14).

Therefore taking the combined teachings of Thorson and Horiguchi as a whole, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the feature of Horiguchi into the device of Thorson. The motivation to combine Thorson and Horiguchi would be to synchronize the modulators, which is well known in the art.

Thorson also fails to teach wherein the second modulator is a pseudorandom phase modulator for modulating a LO signal using the same pseudorandom code as the first phase modulator. However Pitel teaches a second modulator is an inverse phase modulator (inverter 17 in fig. 7) for modulating a LO signal (the output from oscillator 12 in fig. 7) using the same pseudorandom code as the first phase modulator (it would be obvious that modulators 17 and 18 use the same received pseudorandom code).

Therefore taking the combined teachings of Thorson and Pitel as a whole, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the feature of Pitel into the device of Thorson. The motivation to combine Thorson and Pitel would be to achieve easy control even when operating at resonance (col. 3 lines 48-49 of Pitel).

Re claim 6, the modified invention of Thorson teaches a mixer circuit further including an intermediate filter (LPF 112 and 114 in fig. 2 of Thorson) coupled between said first output port (input port corresponding to signal 219 in fig. 2 of Thorson) and one of said third and fourth input ports (input port corresponding to signal 221 in fig. 2).

Re claim 14, the modified invention of Thorson teaches a mixer wherein said modulator and said inverse modulator are configured for M-ary modulation techniques (col. 7 lines 1-11 of Thorson, it would be obvious to use the well known M-ary modulation technique for both modulators).

Re claim 28, all of the claim limitations as recited have been analyzed and addressed in the above rejections with respect to claim 1. It would be obvious and necessary to have a method of using the apparatus as claimed in claim 1.

Re claim 32, all of the claim limitations as recited have been analyzed and addressed in the above rejections with respect to claim 14.

**7. Claims 2-5, 12, 29, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thorson (US6101225) in view of Horiguchi et al (US6133791) and Pitel (US4661897) in view of Underbrink et al (US6754287).**

Re claim 2, the modified invention of Thorson fails to teach a mixer circuit wherein said phase modulator is a phase shift keying (PSK) modulator.

However Underbrink teaches wherein a phase modulator is a phase shift keying (PSK) modulator (col. 7 lines 41-44, col. 9 lines 11-20, PSK is a well known modulation method).

Therefore taking the modified teachings of Thorson, Horiguchi, and Pitel with Underbrink as a whole, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the feature of Underbrink into the device of Thorson, Horiguchi, and Pitel. The motivation to combine Underbrink, Pitel, Horiguchi, and Thorson would be to reduce power consumption and enhance reliability (col. 3 lines 2-6 of Underbrink).

Re claim 3, it would have been obvious to use the same PSK modulation scheme for the inverse phase modulator as the first phase modulator in claim 2.

Re claim 4, the modified invention of Thorson teaches a mixer circuit wherein said phase modulator is a first direct sequence binary phase shift keying (BPSK) modulator (col. 9 lines 13-15 of Underbrink) modulated according to a pseudorandom number code (the output of element 51 in fig. 14 of Horiguchi) and said mixer circuit

includes a PN code generator for generating said PN code (element 51 in fig. 14 of Horiguchi).

Re claim 5, the modified invention of Thorson teaches a mixer wherein said inverse phase modulator is a second direct sequence binary phase shift keying modulator (col. 9 lines 13-15 of Underbrink) modulated according to said PN code (the output of element 51 in fig. 14 of Horiguchi).

Re claim 12, the modified invention of Thorson fails to teach a mixer wherein said modulator and said inverse modulator are configured for QPSK modulation.

However Underbrink teaches wherein a modulator and an inverse modulator are configured for QPSK modulation (col. 9 lines 13-17).

Therefore taking the modified teachings of Thorson, Horiguchi, and Pitel with Underbrink as a whole, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the feature of Underbrink into the device of Thorson, Horiguchi, and Pitel. The motivation to combine Underbrink, Pitel, Horiguchi, and Thorson would be to reduce power consumption and enhance reliability (col. 3 lines 2-6 of Underbrink).

Re claim 29, all of the claim limitations as recited have been analyzed and addressed in the above rejections with respect to claims 4 and 5.

Re claim 30, all of the claim limitations as recited have been analyzed and addressed in the above rejections with respect to claim 12.

**8. Claims 15 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thorson (US6101225) in view of Horiguchi et al (US6133791) and Pitel (US4661897) in view of Scott (US5784403).**

Re claim 15, the modified invention of Thorson fails to teach a mixer wherein said modulator and said inverse modulator are configured for GMSK modulation techniques.

However Scott teaches a modulator configured for GMSK modulation techniques (col. 18 line 60). It would be obvious to use the well known GMSK modulation for both modulators.

Therefore taking the modified teachings of Thorson, Horiguchi, and Pitel with Scott as a whole, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the feature of Scott into the device of Thorson, Horiguchi, and Pitel. The motivation to combine Scott, Pitel, Horiguchi, and Thorson would be to reduce the bandwidth required to modulate signals, which is a well known advantage of GMSK modulation.

Re claim 31, all of the claim limitations as recited have been analyzed and addressed in the above rejections with respect to claim 15.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEON-VIET Q. NGUYEN whose telephone number is (571)270-1185. The examiner can normally be reached on monday-friday, alternate friday off, 7:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David C. Payne can be reached on 571-272-3024. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Leon-Viet Q Nguyen/  
Examiner, Art Unit 2611

/David C. Payne/  
Supervisory Patent Examiner, Art Unit 2611